

SHELBY COUNTY GOVERNMENT'S CIVIL SERVICE INFORMATION

Number of classified and unclassified employees:

5100 Full-time classified employees; 690 are durational (grant funded 1+ yrs)
438 Full-time unclassified; includes attorney/judicial related employees - 125
373 Head Start; unclassified
96 Attorney General; unclassified
700 Temporary employees; unclassified

Number of job descriptions and job classifications:

475 Classified job positions
96 Unclassified job positions; does not include 43 Head Start classifications
9 Attorney/judicial related (unclassified)
19 Elected Officials classifications – Job descriptions not maintained by HR

The distinguishing characteristics of unclassified and classified positions are described in Chapter 12, Article II of the Shelby Code of Ordinances (originally established by the Private Acts of 1971, Ch. 110). See Exhibit 1 for the relevant excerpt. Depending on the policy-making duties, the scope and size of office operations and direct reporting relationship to the particular elected official, it is possible for a job classification to be a civil service position under one elected official, but be an appointed position under another elected official.

Full/Part Time Employment Numbers (Durational and Non-Durational):

4930 Total Permanent Full-Time Non-Durational
39 Total Permanent Part-Time Non-Durational
1059 Total Permanent Full-Time Durational
35 Total Permanent Part-Time Durational

****See Exhibit 2 for the history of Shelby County Government's Civil Service Merit System (Shelby County Government's Employee Handbook, page 7).**

****See Exhibit 3 for an explanation of Shelby County Government's grievance procedure (Shelby County Government's Employee Handbook, pages 43-44).**

****See Exhibit 4 for a general overview of Shelby County Government's benefits and annual and sick leave accrual schedule (Shelby County Government's Employee Handbook, pages 45-47; 58-59; and 66-67).**

SHELBY COUNTY GOVERNMENT'S RETIREMENT INFORMATION

****See Exhibit 5 for a summary of the systems (Cavanaugh Macdonald Consulting, LLC's Report of the Actuary dated June 30, 2009, pages 16-21).**

Additional information:

In Plan A there are 675 employees eligible to retire in 2010 (549 would be with reduced benefits), in Plan B all 44 employee are eligible to retire and in Plan C 668 are eligible to retire (241 would be with reduced benefits).

****Exhibit 6 depicts a summary of the pension fund's most current actuarial report dated June 30, 2009 that shows an "unfunded actuarial accrued liability" of a negative \$26,772,516.00. Please note that a negative liability is a surplus. (Cavanaugh Macdonald Consulting, LLC's Report of the Actuary dated June 30, 2009, page 1).**

The unfunded liability for Other Post Employment Benefits or OPEB is \$257,543,000 at July 1, 2009 and it has decreased by \$16,214,000 since July 1, 2008. The funded ratio increased from 11.8% at July 1, 2008 to 15.1% at July 1, 2009.

Shelby County does not participate in Social Security because we have our own pension plans. It should also be noted that for workers who are eligible to draw a government pension and also eligible to draw social security, the social security benefit will be reduced (sometimes as much as 50%).



Inter-office Memorandum

City Attorney's Office
Herman Morris, Jr., City Attorney

TO: Julie Ellis, Chairwoman, Metropolitan Charter Commission

FROM: Jack L. Payne, Jr., Assistant City Attorney

DATE: April 22, 2010

SUBJECT: Human Capital Task Force 10

City of Memphis Government Civil Service Information

Number of job titles:

1,044 current job titles
883 regular, full -time
211 temporary

Number of job descriptions and job classifications:

The City currently has 1,449 job descriptions on file. There are more job descriptions than classifications because some classifications that exist as both civil service and non-civil service depending on what area they are in. For example, a Secretary A in the CAO's Office is not civil service while a Secretary A in Human Resources is civil service.

Employee complement:

465 Appointed, 37 vacant
6,770 Non-appointed, 408 vacant
7,235 Filled, 445 Vacant

Please see the copy of the Human Resources overview given to this task Force by Rhoda Gillespie at Tabs #6 and #7 for an explanation of the City's civil service system and grievance procedures.

City of Memphis
Retirement and Benefits Information

Please note that the actuarially determined Unfunded liabilities for the Pension and Other Post Employment Benefits (OPEB) Funds are received annually. Attached are the most recent reports. The unfunded liability amounts are referenced on the following pages”

*Pension Valuation Report -pg. 6 - \$449,527,000⁰⁰ (July 1, 2009) ✓

*OPEB (Retiree Healthcare) -pg. 4 - \$934,240,000.00 (June 30, 2009)

Updated versions of these reports will be received in the fall of this year.

The City's Benefits office is currently trying to run a program to find the number of “baby-boomers” who are eligible to retire and I will advise.


**City of
Memphis**



**Division of Human Resources
EEO/Labor Relations Service Center
Inter-Office Memorandum**

Date: April 27, 2010

To: Rhoda Gillespie
Interim Human Resources Director

From:  Chandell Ryan, Esquire
EEO/Labor Relations Manager

Re: City and County Charter Commission TF10 Questions – Union MOUs

This memorandum is written in response to the email sent to you from Julie Ellis dated April 24, 2010 regarding Union MOUs with City and County – Charter Commission TF 10. Each question is addressed separately below as it relates to the City of Memphis ("City").

1. The number of Union MOUs existing with the city and county and with which unions?

The City has 24 MOUs which reflect agreements with 13 union organizations for 24 bargaining units.

- **American Federation of State, County and Municipal Employees (5 bargaining units)**
 - AFSCME – Main
 - AFSCME – Surveyors
 - AFSCME – Police Property & Evidence and Photo Lab
 - AFSCME – Clerical
 - AFSCME – Housing and Community Development
- **IBEW – Electrical Workers**
- **Roofers Union**
- **Bricklayers Union**
- **Carpenters Union**
- **Cement Masons Union**
- **IUPAT – Painters**
- **Plumbers Union**
- **Communication Workers of America**
- **International Association of Firefighters**
- **Memphis Police Association**
- **International Association of Machinist and Aerospace Workers (3 bargaining units)**

- IMAW – General Services
- IMAW – Police Services
- IMAW – Fire Services
- **International Union of Operating Engineers (6 bargaining units)**
 - IUOE – Stoppage Operator/Sewer Environment
 - IUOE – Heavy Equipment Operators
 - IUOE – Animal Shelter
 - IUOE – Dispatchers
 - IUOE – Treatment Plants
 - IUOE – Zone Construction Inspectors

2. Please describe the nature of the agreements, terms and why the city and county utilize the MOU vehicle? (please do not send me the agreements)

As Tennessee is a “right to work” state, the MOUs are not binding by state law. However, through City Council Resolution Item Numbers 53 (adopted 2/11/1969), 35 (adopted 2/18/1969) and 26 (adopted 3/4/1969) and an Executive Order by former mayor Richard C. Hackett dated April 19, 1984, the City promulgated labor policies which established the right of City employees to engage in collective bargaining. **(Council Resolutions attached as Appendix A; Executive Order and Representation Election Procedures attached as Appendix B).** Summarily, these labor policies provide as follows:

- **City Council Resolution Item No. 53 (adopted 2/11/1969)**
 - City Council instructed the City Attorney to complete a study of state and municipal labor laws in order to make recommendations for appropriate measures to take to adopt a uniform policy relating to the employer-employee relationship between the City and its employees due to disruption in city services via strikes and work slowdowns.
- **City Council Resolution Item No. 35 (adopted 2/18/1969)**
 - City Council resolved that a labor policy be promulgated to include a requirement of the City to “meet and confer with employees, or employees’ representatives to discuss wages, hours, and working conditions” and “a meaningful grievance procedure.”
- **City Council Resolution Item No. 26 (adopted 3/4/1969)**
 - City employees “shall have the rights to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters concerning wages, hours, working conditions and all other terms and conditions of employment.”
 - The City “shall engage in meaningful meetings and conferences with its employees and majority designated representatives ... for the purpose of reaching a written Memorandum of Understanding.”
 - The MOU “shall include a meaningful grievance procedure and a no-strike clause.”
 - City employees “also shall have the right to refuse to join or participate in the activities of employee organizations.”

- **Executive Order by former mayor Richard C. Hackett dated April 19, 1984**
 - Established the policy and procedure for City employees to designate a representative for the purposes of discussions intended to lead to a MOU.

3. Do such agreements affect civil service systems or non civil service systems ..if so why? How?

No. The City's MOUs do not affect the civil service system directly. However, please note that represented employees have the option to take their dispute to arbitration. If the matter is covered by the civil service system and the arbitration procedure, the represented employee must select a venue for resolving the dispute prior to a hearing at civil service or arbitration.

4. Are any of the agreements mirror agreements with the city and county. What services are impacted by each? Numbers of employees? Going forward, is there a service performance requirement to continue such agreements through a transition of the governments?

No. The City does not have a "mirror" agreement with the county.

5. Once the new government (Charter) is effective, do you agree that the inclusion of "labor relations" in the new Human Resource Performance system is sufficient for the Charter? I would appreciate your suggestions and the reasons—whether political or service results oriented.

Yes. 1. Historically, the city of Memphis has had unique ties to unions considering the sanitation strikes in the 1960s which forced union recognition. Much of the lack of trust which caused the strikes with government remains. 2. Many employees, both represented and unrepresented, understand that the benefits they enjoy are largely in place due to the efforts of unions. Thus, employee sentiment will more than likely be for the unions to remain. 3. Also, it is important to note that while union membership overall in the United States is declining, public sector membership has steadily increased. Union membership for the City has remained consistent. (In this decade, 36% of public workers are represented by unions while private sector union density had plummeted to around 7%. Recently, workers have increasingly chosen union membership. The US Bureau of Labor Statistics most recent survey indicates that union membership in the US has risen to 12.4% of all workers, from 12.1% in 2007. Private sector union membership has rebounded as well, increasing from 7.5% in 2007 to 7.6% in 2008. <http://www.bls.gov/news.release/union2.nr0.htm>) 4. Even if the new government will not involve unions, it is advisable to maintain the function of "labor relations" in an effort to provide effective communication with the labor and professional workforces and to address the needs of same. Employees will need a designated office to voice their concerns.

I trust that this memorandum adequately answers your questions. Feel free to contact me if additional information is required.

C E R T I F I C A T I O N

STATE OF TENNESSEE

COUNTY OF SHELBY

I, Danny N. Wray, do hereby certify that I am the duly appointed, qualified and acting Comptroller of the City of Memphis, and that as such official, I am charged with the duty of keeping the minute records, papers, and all matters coming before the Council of said City.

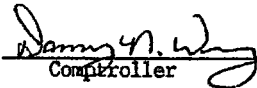
I further certify that the accompanying resolutions are full, true, and complete copies, the original of which are on file in Comptroller's Council Records Office, Room 310, City Hall.

Item Number 53 - Adopted February 11, 1969

Item Number 35 - Adopted February 18, 1969

Item Number 26 - Adopted March 4, 1969

GIVEN under my hand and the Official Seal of the City of Memphis, Tennessee, this 16th day of March 1987.


Comptroller

R E S O L U T I O N

WHEREAS, The best interest of the City of Memphis require that a uniform policy be established regarding the relationship between the city and its employees; and

WHEREAS, The disruption of city services is against public policy and strikes and slowdowns present a clear and present danger to the health and welfare of the citizens of the City of Memphis; and

WHEREAS, The Executive Branch of the City of Memphis has met and conferred with numerous organizations claiming to represent certain employees of the City of Memphis; and

WHEREAS, The City of Memphis has been conferring with legislators of the State of Tennessee concerning legislation which may be introduced to clarify the common law of the State of Tennessee as set forth in the court decisions; and

WHEREAS, The City has been studying the laws and municipal ordinances of various states and municipalities concerning employee organizations.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MEMPHIS that the City Attorney is requested to complete a study of State and Municipal Labor Laws and to make ^ within three weeks, ^ recommendations from his study so that the City may by appropriate measures ~~and~~ adopt a uniform policy relating to the employer-employee relationship between the City of Memphis and its employees.

February 11, 1969

I hereby certify that the foregoing is a true copy, and said document was adopted - approved by the Council of the City of Memphis in regular session on the FEB 11 1969

[Signature]
Comptroller

D. R. Hopper

*deputy
Clerk
S. J. Mc*

R E S O L U T I O N

WHEREAS, at its meeting February 11, 1969 the Council of the City of Memphis passed a resolution directing the City Attorney to make recommendations within three (3) weeks regarding a labor policy for the City, and

WHEREAS, the City Council will promulgate a City policy regarding labor and unions in all departments and divisions of the City forthwith upon receipt of recommendations from the City Attorney,

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MEMPHIS that the labor policy to be promulgated will contain the following:

1. That all departments and divisions of the City, including all separate boards, commissions, divisions and authorities will meet and confer with employees, or employees' designated representatives to discuss wages, hours, and working conditions, provided that such designated representatives shall have been appropriately selected by a majority of employees.
2. That employee rights will be protected and their grievances corrected by a meaningful grievance procedure, as uniform as practicable.

February 18, 1968

I hereby certify that the foregoing is a true copy and
said document was adopted - approved by the Council
of the City of Memphis in regular - special session on
Feb 18, 1968

D. R. Hopper

RESOLUTION

WHEREAS, the City of Memphis proposes to establish a policy with respect to employee organizations in order to provide guide lines for the administration of future relationships with such organizations;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MEMPHIS that the labor policy of the City of Memphis is as follows:

1. Employees of the city, including employees of all separate boards, commissions, divisions or authorities, shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters concerning wages, hours, working conditions and all other terms and conditions of employment.
2. The City, including all separate boards, commissions, divisions or authorities, shall engage in meaningful meetings and conferences with its employees and their majority designated representatives on all matters concerning wages, hours, working conditions and all other terms and conditions of employment for the purpose of reaching a written Memorandum of Understanding.
3. The Memorandum of Understanding shall be approved by the Memphis City Council insofar as it contains any provisions affecting the budget of the City of Memphis.
4. The Memorandum of Understanding shall include a meaningful grievance procedure and a no-strike clause.
5. Employees of the City also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the City.

March 4, 1969

I hereby certify that the foregoing is a true copy and said document was adopted - approved by the council of the City of Memphis in regular - special session on the MAR 4 1969


Comptroller
D. R. Hopper



City of Memphis

Tennessee

RICHARD C. HACKETT
Mayor

April 19, 1984

DONALD A. WHITE, JR.
Chief Administrative Officer

EXECUTIVE ORDER

It shall be the policy of the City of Memphis to recognize representatives designated or selected as provided herein for the purpose of discussions that are intended to lead to a Memorandum of Understanding with the City. Any representative so recognized shall be the exclusive representative of all the employees in the designated unit, provided that any individual employed may present grievances to the City, and have the grievances adjusted, without the intervention of the designated representative, if the adjustment is not inconsistent with the terms of any Memorandum of Understanding then in effect. A representative may be recognized only in accordance with the following procedures:

- I. Upon the filing of a petition with the Director of Personnel, in accordance with the rules promulgated by him or her, by an employee or group of employees, or an individual or labor organization acting on their behalf, alleging that thirty percent or more of the employees within a unit deemed to be appropriate for such purpose wish to be represented by the petitioner, the Director of Personnel, or his agents, shall conduct a secret ballot election to determine such question of representation and shall certify the results thereof.
- II. Upon the filing of a petition with the Director of Personnel, in accordance with the rules promulgated by him or her, by an employee or group of employees alleging that thirty percent or more of the employees in a unit where a representative has been recognized desire that such recognition be rescinded, the Director of Personnel, or his agents, shall conduct a secret ballot election to determine such question of representation shall certify the result thereof.

- III. In order to ensure employees the opportunity to select representatives of their own choosing, the Director of Personnel shall decide in each case the unit appropriate for the purpose of discussions that are intended to lead to a Memorandum of Understanding. In no event shall any such unit include executive, managerial, supervisory, confidential or non-civil service employees.
- IV. An election may not be conducted in any unit within which, in the preceding twelve-month period, a valid election was held. The Director of Personnel shall determine who is eligible to vote in an election and shall promulgate rules governing such representation elections.
- V. In no event shall a representative be designated or selected where that representative does not receive a majority vote of those employees eligible to vote in the unit designated by the Director of Personnel.

APPROVED:

Richard C. Backett
Mayor Richard C. Backett

RCH:rjj

CITY OF MEMPHIS
DIVISION OF PERSONNEL SERVICES
REPRESENTATION ELECTION PROCEDURES

The Director of Personnel for the City of Memphis Government is responsible for administering representation election procedures for all employees of the City of Memphis Government. The following rules and procedures governing the determination of employee representation matters shall apply:

Petitions for Elections - A petition for election to determine a representative of employees for the purpose of discussions that are intended to lead to a Memorandum of Understanding with the City, or a petition for decertification of such a representative, shall be submitted to the Director of Personnel Services. A petition for election shall include:

- (a) A description of the employee unit claimed to be appropriate.
- (b) The number of employees in such unit.
- (c) The name and address of persons or labor organizations who claim to represent employees in the alleged appropriate unit.
- (d) The name, affiliation, if any, and address of the petitioner and the signature of the petitioner or its agent.

Appropriate Unit- The Director of Personnel Services shall determine, in each case, the appropriate unit and shall prepare a unit description defining such unit. In no event, shall any such unit; include executive, managerial, supervisory, confidential, or non-civil service employees, or impact on the health, safety and welfare of the general public and the public interest.

Showing of Interest - A petition for election shall be supported by a showing of interest of thirty percent (30%) of the employees in the appropriate unit. The statement of interest shall be a statement signed by an employee within six (6) months of the date of submission of the petition for election that he or she desires to be represented by the petitioner or, in the case of a decertification petition, a statement that he or she no longer desires to be represented by a certified representative. /

Order of Election - If the Director of Personnel Services, upon investigation of a petition for election that is supported by a sufficient showing of interest, determines that a question of representation exists in an employee unit determined to be appropriate, he or she shall order an election to determine such question. The Director of Personnel Services shall determine the place and time of such election and shall issue a Notice of Election setting forth the date, time(s), and place (s) of such election; the unit description; and the purpose of the election. A roster of employees in the unit shall be submitted to the Director of Personnel services one (1) week prior to the election. Only those employees who are in the employee unit at the time of the election will be eligible to vote.

No election may be conducted in any unit within which, in the preceding twelve-month period, a valid election was held. The Notice of Election and a sample ballot shall be posted in the workplace(s) at least five (5) days prior to the election.

Elections "General Procedures" - An election shall be conducted by an election officer, appointed by the Director of Personnel Services, and shall be by secret ballot. The election officer may conduct an

election in whole or in part of mail ballot if it is not practicable or reasonable to hold an election at which employees may vote in person. The City of Memphis and the petitioner may each designate a representative to observe that ballots are properly cast and votes properly counted. Observers are subject to such reasonable limitations as the election officer may prescribe and may not, in any way, interfere with the proper conduct of the election. An authorized observer may challenge, for good cause, the eligibility of any person to vote in the election. A person challenged as an ineligible voter shall be permitted to vote in secret, and the election officer shall set aside the ballot, with appropriate markings. If it is determined by the election officer that the challenged ballot or ballots would be decisive of the result, the Director of Personnel Services shall determine the merits of any challenged ballot and decide whether or not the person is an eligible voter.

Ballot boxes shall be examined before the opening of the polls, in the presence of the observers, and shall be sealed at the opening of the polls.

A voter shall make a cross or check mark in the circle, or block, on the ballot designating his choice in the election. The voter shall not place his or her name on the ballot or, in any way, indicate the voter's identity. If the ballot is defaced, torn, or marked in such manner that it is not understandable, the election officer shall declare the ballot void. If the voter inadvertently spoils a ballot, it may be returned to the election officer who shall provide another ballot. The voter shall mark his ballot in a voting booth or other place, designated by the election officer, where no other person can observe the marking of the ballot; shall fold the ballot so that no

part of its face is exposed; and shall personally deposit the ballot in the ballot box. If the election is continued for more than one (1) period, the ballot box shall remain sealed until the subsequent opening of the polls, and shall remain in the possession of the election officer until time for the counting of the ballots.

The election officer shall count the ballots, in the presence of the observers, as soon after the polls have closed as practicable and shall announce the results of the election as soon as the complete results have been tabulated. In order for a representative of employees to be selected and designated, or retain as the representative for the appropriate unit, that representative must receive a majority vote of those employees eligible to vote in that election. Following the election, if no timely objections or challenges are filed, the Director of Personnel Services shall certify and announce the results.

Within five (5) days of the election, excluding Saturdays, Sundays, and legal holidays, an interested party may file with the Director of Personnel Services objections to the conduct of the election or to conduct improperly affecting the results of the election. Objections shall be in writing and shall contain a statement of facts upon which the objections are based and the reasons for the objections. The Director of Personnel Services shall investigate any objections properly filed and may conduct a hearing if he or she determines a hearing would be appropriate. If the Director of Personnel Services sustains objections to an election, he or she may direct a new election, to be held at such time and under such circumstances and conditions as he or she deems appropriate. If no objections are sustained, the original election results shall be certified.